

VZCZCXRO4136
PP RUEH DU RUEHJO RUEHMR
DE RUEHTO #1481/01 3141156
ZNR UUUUU ZZH
P 101156Z NOV 05
FM AMEMBASSY MAPUTO
TO RUEHC/SECSTATE WASHDC PRIORITY 4623
INFO RUCNSAD/SOUTHERN AFRICAN DEVELOPMENT COMMUNITY
RUEAIIA/CIA WASHDC
RUEHRC/DEPT OF AGRICULTURE WASHDC
RUCPDO/DEPT OF COMMERCE WASHDC
RHEFDIA/DIA WASHDC
RUEHLMC/MILLENNIUM CHALLENGE CORP WASHINGTON DC
RHEHNSC/NSC WASHDC

UNCLAS SECTION 01 OF 02 MAPUTO 001481

SIPDIS

SENSITIVE

SIPDIS
STATE FOR AF/S - TREGER
STATE FOR EB/IFD/OIA
STATE PASS USTR FOR P.COLEMAN

E.O. 12958: N/A
TAGS: [EAGR](#) [ETRD](#) [EINV](#) [MZ](#)
SUBJECT: MOZAMBIQUE: GOVERNMENT REVOKES CONCESSION FOR US
TOBACCO COMPANY, ALARMS LOCAL BUSINESS COMMUNITY

MAPUTO 00001481 001.2 OF 002

¶1. (U) Summary: The Government of Mozambique's (GRM) recent decision to revoke a large tobacco concession held by a US company without transparency, documentation or the steps required by Mozambican law is causing considerable concern in Mozambique's business community and could damage Mozambique's reputation with foreign investors -- particularly if the original holder of the concession, DIMON, files an insurance claim, as threatened. Additionally, the GRM's actions may violate its Bilateral Investment Treaty with the US, which came into force in March. End Summary.

BACKGROUND

¶2. (U) DIMON, an American corporation, was involved in the worldwide cultivation of loose-leaf tobacco. On May 13, 2005, DIMON merged with Standard Commercial Corporation to form Alliance One International, incorporated in Virginia and now one of the world's largest loose-leaf tobacco merchants. The merger of DIMON's operations in Mozambique is still ongoing. For this reason, this cable refers to DIMON and not Alliance One.

¶3. (U) DIMON's investment in Mozambique is extensive; it currently operates in Niassa, Nampula, Zambezia, Manica and Tete provinces, works with almost 60,000 farmer/producers and directly employs nearly 2,000 Mozambicans. On May 24, 2001, the Mozambican Government granted DIMON a ten-year right to operate a tobacco concession area in Chifunde district in Tete province, with the option to renew for five years.

CONCESSION REVOKED

¶4. (U) Our understanding of the concession revocation, drawn from information provided by lawyers for DIMON in Mozambique and from local business associations in Maputo, is as follows:

¶5. (U) Prior to the 2005/2006 season, which started in September, DIMON invested approximately USD five million in seeds, fertilizers and other inputs delivered to producers in

the Chifunde area. On August 5, 2005, the Minister of Agriculture, Tomas Frederico Mandlate, issued a decision revoking DIMON's concession rights in Chifunde district. Minister Mandlate gave the following reasons: 1) the illegal entry of "Stancom" (referring to DIMON's merger with Standard Commercial Corporation, mentioned in para 2) into the concession area; 2) the massive dismissal of employees; 3) the stoppage of tobacco trade; and 4) the illegal purchase of tobacco. Mandlate also cited a decree issued by the Tete provincial governor against DIMON, along with a request for intervention by the Chifunde district government. DIMON says it received no warning prior to the revocation and, despite repeated requests, still has not received any evidence or documentation supporting the alleged grounds.

¶6. (U) On August 15, DIMON filed an appeal of the August 5 decision with the Minister of Agriculture. Under Mozambican law, this appeal should have maintained the status quo pending a final decision from the Ministry or a competent court. Despite this fact, the status quo was not maintained and on September 15, 2005, the Tete governor issued another decree officially granting another company, Mozambique Tobacco, the immediate right to operate the concession. Mozambique Tobacco is the implementing partner for Universal Leaf, another an American corporation.

¶7. (U) However, under pressure from public complaints by the US-Mozambique Chamber of Commerce and the national business umbrella association, CTA, on October 11 Agriculture Minister Mandlate revoked his August 5 decision against DIMON and remanded the issue back to the Tete governor for further consideration. As we understand it, the governor of Tete was supposed to allow a joint fact-finding investigation team, to include a legal representative of DIMON and one of CTA, to visit the Chifunde area to investigate the grounds of revocation. The investigation did not occur as planned; instead, one government official conducted the investigation

MAPUTO 00001481 002.2 OF 002

and supported the governor's decision against DIMON.

¶8. (U) DIMON is considering several courses of action in response to the loss of its concession in Chifunde, including withdrawing investments from all of its tobacco concessions in Mozambique, filing an insurance claim with its private insurer asking for an indemnity of approximately ten million USD and seeking recourse through international arbitration. DIMON lawyers suggested also that they are exploring filing for arbitration under provisions of Article IX of the Bilateral Investment Treaty.

COMMENT

¶9. (SBU) We have heard allegations that DIMON treated its employees badly and was strongly disliked by tobacco growers in the Chifunde area. It is also noteworthy that DIMON has never approached the Embassy for our assistance over the dispute. For these reasons, we suspect the GRM's ire against DIMON may have some merit. However, whether DIMON is in the right or wrong, it appears that the GRM has acted arbitrarily by not following the law. This has foreign investors here worried, particularly that it could mark the beginning of an anti-business trend by the new Guebuza government. If DIMON files an insurance claim, as threatened, Mozambique's credit rating and reputation as an investment destination will surely suffer.
La Lime